

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALBERT T. BEANE, JR.,

Plaintiff,

V.

THE BANK OF NEW YORK MELLON, BNY
CONVERGEX EXECUTION SOLUTIONS LLC
and CALLAN ASSOCIATES, INC.,

Defendants.

[illegible]

07-cv-9444 (RMB)

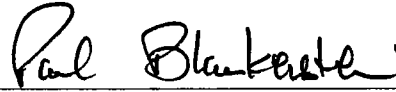
**DEFENDANTS' NOTICE OF MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

PLEASE TAKE NOTICE that at a date and time to be determined by the Court, The Bank of New York Mellon, BNY ConvergeX Execution Solutions LLC, and Callan Associates, Inc. (collectively, “defendants”), by and through their undersigned counsel, will, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, move this Court to enter judgment in their favor, dismissing with prejudice the complaint of plaintiff Albert T. Beane, Jr., for the reasons set forth in the accompanying Joint Memorandum of Law and for such other and further reasons as may appear at any hearing on this Motion.

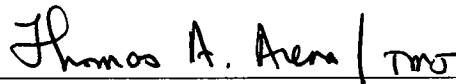
PLEASE TAKE FURTHER NOTICE that the above defendants have attached hereto a proposed Order of this Court granting their Motion To Dismiss.

DATE: May 30, 2008

Respectfully submitted,



William J. Kilberg
Paul Blankenstein
GIBSON, DUNN & CRUTCHER LLP
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Counsel for Callan Associates, Inc.



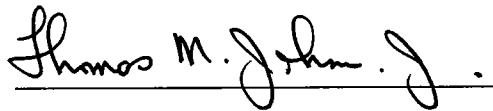
Thomas A. Arena
Dorothy Heyl
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1 Chase Manhattan Plaza
New York, NY 10005
Telephone: (212) 530-5000
Counsel for BNY Defendants

CERTIFICATE OF SERVICE

I, Thomas M. Johnson, Jr., hereby certify that on this 30th day of May 2008, I caused copies of the foregoing Notice of Motion to Dismiss by Defendants The Bank of New York Mellon, BNY ConvergeX Execution Solutions LLC, and Callan Associates, Inc., accompanying Joint Memorandum of Law in Support of their Motion to Dismiss and in Opposition to Plaintiff's Motion to Certify Class of ERISA Plans, and a copy of the Proposed Order, to be filed electronically with the Court and served this same day via the Court's ECF notification system upon the following:

Gregory Y. Porter
McTIGUE & PORTER LLP
5301 Wisconsin Avenue, NW
Suite 350
Washington, DC 20015
Phone: (202) 364-6900
Fax: (202) 364-9960
Email: gporter@mctiguelaw.com

Date: May 30, 2008

A handwritten signature in black ink, reading "Thomas M. Johnson, Jr.", written over a horizontal line.

Thomas M. Johnson, Jr.
Gibson, Dunn & Crutcher

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[illegible]

07-cv-9444 (RMB)

PROPOSED ORDER

The Motion To Dismiss of defendants The Bank of New York Mellon, BNY ConvergeEx Execution Solutions LLC, and Callan Associates, Inc. is hereby GRANTED and the complaint is dismissed with prejudice.

SO ORDERED

Honorable Richard M. Berman

Dated: _____, 2008